(18,920.)

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1903.

No. 274.

THE CITY OF SEATTLE, APPELLANT,

vs.

JOHN W. THOMPSON.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE DISTRICT OF WASHINGTON.

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JUDD & DETWEILER, PRINTERS, WASHINGTON, D. C., SEPTEMBER 1, 1903.

Supreme Court of the United States, October Term, 1903.

THE CITY OF SEATTLE, Appellant,
vs.
JOHN W. THOMPSON. } No. 274.

Extracts from the Transcript of Record.

* * * * * * *

(Record, p. 240.)

In the Circuit Court of the United States for the District of Washington, Northern Division. In Equity.

JOHN W. THOMPSON, Complainant,
vs.
THE CITY OF SEATTLE, Respondent. } No. 866.

Decree.

This cause coming on for final hearing at this term upon the bill of complaint, the answer of respondent thereto, and replication of complainant, and upon all the records herein, and testimony having been duly introduced on behalf of each of the parties, and after hearing argument by counsel on behalf of each of said parties; and it appearing that so far as concerns the property of complainant in the bill of complaint and hereinafter described all the assessment and reassessment proceedings referred to in the pleadings are null and void and of no effect as against the complainant or against his said lands; and it appearing to the court that the assessment levied against said lands of complainant by virtue of said assessment and reassessment proceedings, and by virtue of ordinances No. 3199 and 3267 of the respondent The City of Seattle, were and are null, void and of no effect whatever as against the complainant or against his said lands:

Now, therefore, on motion of Bausman and Kelleher, solicitors for complainant, it is—

Ordered, adjudged and decreed that all the assessment and reassessment proceedings referred to in the bill of complaint herein are null, void and of no effect whatever as against said complainant or against his said lands; that the assessment levied against said lands of complainant by virtue of ordinance No. 3267 of respondent, The City of Seattle, is null, void and of no effect whatever as against complainant or his said lands, and that the attempted levy of the assessment by virtue of said ordinance No. 3267 is null, void and of no effect as against complainant or his said lands, which are described more particularly as lots twelve (12) to twenty-four (24) inclusive, in block twenty-eight (28); lots nine (9) to sixteen (16)

inclusive, in block twenty-nine (29); lots fifteen (15) to twenty-eight (28), inclusive, in block thirty (30); lots fifteen (15) to twenty-eight (28) inclusive, in block thirty-one (31); lots twelve (12) to twenty-two (22) inclusive, in block thirty-two (32); lots one (1) to eleven (11) inclusive, in block thirty-three (33); lots one (1) to fourteen (14) inclusive, in block thirty-four (34); lots one (1) to fourteen (14) inclusive, in block thirty-five (35); and lots one (1), two (2), three (3), four (4) and nine (9) in block thirty-six (36) according to that certain plat called the Hill Tract addition, filed by Ben. E. Snipes and wife in the auditor's office of King county, State of Washington.

It is further ordered, adjudged and decreed that said respondent, The City of Seattle, has no claim of any kind against said lands, or any thereof, belonging to complainant on account of or by virtue of said assessment or said reassessment proceedings, or by virtue of any proceedings based on said assessment or said reassessment, or founded upon said levy of said assessment or upon said reassessment.

And it is further ordered, adjudged and decreed that said The City of Seattle, its officers, tax collectors, agents and attorneys, be and they are hereby forever enjoined and restrained from attempting to enforce the said assessment or reassessment levied against the said property of complainant and from attempting to levy or collect said assessment or reassessment levied against said lands of complainant hereinbefore described as lots in said Hill Tract addition and from selling said lands, or any part thereof; and said The City of Seattle, its officers, tax collectors, agents and attorneys are hereby forever enjoined and restrained from asserting any claim whatsoever in or to said lands or any part thereof, and that said respondent, The City of Seattle, has not any estate, right, title or interest in or to said lands of said complainant by virtue of said assessment or reassessment proceedings.

It is further ordered, adjudged and decreed that complainant has a clear title to the said lands so described as said lots, free and clear from all claim of any kind of said The City of Seattle founded or based upon said attempted assessment or reassessment against said lands.

It is further ordered, adjudged and decreed that said complainant have and recover from said respondent, The City of Seattle, his costs herein, taxed at one hundred three and 25-100 dollars ($103.25), and that execution issue therefor.

Dated June 22, 1901.

C. H. HANFORD, *Judge.*

To the foregoing decree and to each and every part thereof, respondent excepts and its exception is hereby allowed.

C. H. HANFORD, *Judge.*

Endorsed: Decree, Filed in the United States circuit court, district of Washington. June 22, 1901. A. Reeves Ayres, clerk. R. M. Hopkins, deputy.

(Record, p. 244.)

In the Circuit Court of the United States for the District of Washington, Northern Division.

JOHN W. THOMPSON, Complainant and Appellee,
vs.
THE CITY OF SEATTLE, a Municipal Corporation, Respondent and Appellant. } No. 866.

Petition for Appeal and Order Allowing Same.

The above-named respondent and appellant, The City of Seattle, conceiving itself aggrieved by the decree of said court entered on the 22d day of June, 1901, in the above entitled cause, it hereby appeals from said decree to the Supreme Court of the United States, and prays that this, its appeal, may be allowed, and that a transcript of the record and proceedings and papers upon which said decree was made, properly authenticated, may be sent to the Supreme Court of the United States.

PRATT & RIDDLE,
Solicitors for The City of Seattle,
Respondent and Appellant.

And now, to-wit, this 19th day of January, 1903, it is ordered that said appeal be allowed as prayed for. An appeal bond is herein fixed at the sum of $500 *dollars.*

Dated this 19th day of January, 1903.

C. H. HANFORD, *Judge.*

Indorsed: Petition for appeal and order allowing same. Filed in the U. S. circuit court, district of Washington, Jan. 19, 1903. A. Reeves Ayres, clerk, H. M. Walthew, deputy.

(Record, p. 246.)

In the Circuit Court of the United States for the District of Washington, Northern Division.

JOHN W. THOMPSON, Complainant and Appellee,
vs.
THE CITY OF SEATTLE, a Municipal Corporation, Respondent and Appellant. } No. 866.

Assignment of Errors.

On the 19th day of January, 1903, the above-named respondent and appellant, by its solicitors, Pratt & Riddle, for its assignment of errors herein says that in the record and proceedings in the above-entitled cause upon the hearing and determination thereof in the above-entitled court, and in the judgment and decree rendered therein by said court, in said cause, under date and on the 22d day of June, 1901, there is manifest error in this, to-wit:

1. That said court erred in overruling respondent's and appellant's demurrer to complainant's and appellee's bill of complaint on

the ground that the same does not state a cause of action against respondent and appellant.

2. That said court erred in denying respondent's and appellant's motion to dismiss, made at the close of complainant's and appellee's testimony, on the grounds stated in the record, viz: That complainant, appellee, here, has not established any right of action or cause against respondent, appellant here, or shown any reason for any relief; that complainant and appellee has not shown that there was not a dedication of Weller street in the city of Seattle, as improved and as described in the bill of complaint, and has not shown that the lien of the assessment under the reassessment proceedings, as described in the complaint, was not a valid and legal assessment; and, further, that the complainant and appellee has not offered to do equity in the premises.

3. That said court erred in rendering a decree granting complainant and appellee the relief prayed for in said bill of complaint.

Wherefore the above-named respondent and appellant, The City of Seattle, prays that this its assignment of errors, be entered upon the record of this cause; and it further prays that upon the hearing of this appeal the said decree be in all things reversed, and that complainant's and appellee's said bill of complaint and its said cause be dismissed.

Dated this 19th day of January, 1903.

THE CITY OF SEATTLE,
Respondent and Appellant,
By PRATT & RIDDLE, *Its Solicitors.*

Indorsed: Assignment of errors. Filed in the U. S. circuit court, dist. of Washington, Jan. 19, 1903. A. Reeves Ayres, clerk. H. M. Walthew, deputy.

(Record, p. 249.)

In the Circuit Court of the United States for the District of Washington, Northern Division. In Equity.

JOHN W. THOMPSON, Complainant and Appellee,
vs.
THE CITY OF SEATTLE, a Municipal Corporation, Respondent and Appellant. } No. 866.

Bond on Appeal.

Know all men by these presents, that we, The City of Seattle, by Thomas J. Humes, its mayor, as principal, and R. H. Thomson, as surety, for the above-named respondent and appellant, are jointly and severally held and firmly bound unto John W. Thompson, the above-named complainant and appellee, in the penal sum of five hundred dollars, to him to be paid, for the payment of which jointly and severally, we bind ourselves, our successors and assigns, our heirs, executors and administrators, firmly by these presents.

Witness our hand and the corporate seal of the said City of Seattle, this 16 day of January, 1903.

The condition of the above obligation is such, that, whereas the above-named City of Seattle has prosecuted an appeal to the Supreme Court of the United States in the above entitled cause:

Now, therefore, if the said City of Seattle, respondent and appellant, shall prosecute its said appeal to effect and answer all costs, then this obligation shall be void, otherwise to remain in full force and effect.

THE CITY OF SEATTLE,
[CORPORATE SEAL.] By T. J. HUMES, *Its Mayor.*
R. H. THOMSON.

Attest: JNO. RIPLINGER,
City Comptroller.

DISTRICT OF WASHINGTON, } ss.
State of Washington, County of King, }

Personally appeared before me, the undersigned, a notary public in and for the State of Washington, R. H. Thomson, to me known to be the surety named in the foregoing bond, who, being first duly sworn, on oath says that he is a resident and freeholder within the district, and is worth the sum of $500 *dollars* over and above all debts and liabilities and exclusive of property exempt from execution.

Witness my hand and official seal this 16 day of January, 1903.

[NOTARIAL SEAL.] ROB'T F. BOOTH,
Notary Public in and for the State of Washington, Residing at Seattle.

The foregoing bond is approved by me this 19th day of January, 1903.

C. H. HANFORD, *Judge.*

Indorsed: Bond on appeal. Filed in the U. S. circuit court dist. of Washington, Jan. 19, 1903. A. Reeves Ayres, clerk. H. M. Walthew, deputy.

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(Record, p. 319.)

In the Circuit Court of the United States for the District of Washington, Northern Division. In Equity.

JOHN W. THOMPSON, Complainant and Appellee,
vs.
THE CITY OF SEATTLE, a Municipal Corporation, Respondent and Appellant. } No. 866.

Citation on Appeal.

The United States of America to John W. Thompson, complainant and appellee, Greeting:

You are hereby cited and admonished to be and appear at a term of the Supreme Court of the United States, to be holden at Wash-

ington, D. C. within sixty days from the date hereof, pursuant to an appeal filed in the clerk's office of the circuit court of the United States for the district of Washington, northern division, wherein John W. Thompson, is appellee, and The City of Seattle is appellant, to show cause, if any there be, why the decree in said appeal mentioned should not be corrected, and speedy justice should not be done to the party on that behalf.

Witness the Honorable Melville W. Fuller, Chief Justice of the United States, this 19th day of January, 1903.

[SEAL.] C. H. HANFORD, *Judge.*

Return on Service of Writ.

UNITED STATES OF AMERICA, }
District of Washington, } ss:

I hereby certify and return that I served the annexed citation on appeal on Bausman & Kelleher, attorneys of the therein-named John W. Thompson, by handing to and leaving a true and correct copy thereof with Daniel Kelleher, one of the firm of said attorneys, Bausman & Kelleher, personally at his office in Seattle in said district on the nineteenth day of January, A. D. 1903.

C. B. HOPKINS,
U. S. Marshal,
By H. W. TYLER, *Deputy.*

Marshal Fees.

Service	$2.00
Mileage	.12
Total	$2.12

Endorsed: No. 866. In the circuit court of the United States for the district of Washington. John W. Thompson vs. City of Seattle. Citation on appeal. Filed in the U. S. circuit court dist. of Washington, Jan. 19, 1903. A. Reeves Ayres, clerk, by H. M. Walthew, deputy.

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